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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,221	03/09/2001	Albert J. Frattarola	61-01	6781

7590 04/07/2004

Paul & Paul
2900 Two Thousand Market Street
Philadelphia, PA 19103

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/803,221	FRATTAROLA, ALBERT J.	
	Examiner	Art Unit	
	Flemming Saether	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Damm (US 5,462,395) in view of Ernest (US 3,465,803). Damm discloses a captive screw comprising a ferrule (3) and a screw (2) including a head (4), a shank (8), a thread (10) and a collar (13 also see Fig. 8) formed on the shank proximate the thread. The screw being captive on the ferrule between the head and the collar. Damm does not include a spring. Ernest discloses a captive screw including a spring (50) extending between a head (38) and a ferrule (10) and teaches to provide a spring is known by the disclosure of embodiments both with (Figs. 1-12) and without (Figs. 13-15) a spring. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the captive screw of Damm with a spring between the head a ferrule as disclosed in Ernest because Ernest teaches the it is well known to provide a spring to an otherwise un-sprung captive screw. The spring being operative to retract the screw facilitating installation.

Claim 1 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Ernest (US 3,465,803) in view of Damm (US 5,462,395). Ernest discloses a captive screw comprising a ferrule (10); a screw having a head (38), shank (44), threads (36) and collar (56); and a spring (50). The screw is captured in the ferrule. Damm

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discloses a captive screw wherein the collar (13 also see the Fig. 8) is formed on the shank. In view of Damm's disclosure, it would obvious for one of ordinary skill in the art at the time the invention was made; to have a collar of formed on the shank of Ernest. The collar being formed on the shank would facilitate assembly of the screw in the ferrule since the screw collar would simply have to be press fit through the reduced diameter portion of the ferrule. Also, as in Damm the collar would operate as a standoff to engage a surface of a panel to limit penetration.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Earnest as applied to claim 1 above, and further in view of Aukzemas. Aukzemas discloses the particulars of the ferrule. Specifically, the ferrule is disclosed as having a knurled outer surface including a groove (32) and annular lip (generally at 30). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to the exterior of the ferrule of Earnest as disclosed in the Aukzemas in order to improve its attachment to the panel. The ring on the ferrule being bent is a produce-by-process limitation wherein it is merely the final product considered for patentability. Barry shows a ring (22).

Response to Arguments

Applicant first argues that Damm is not a "captive screw, as that term is understood in the art". In response, the examiner disagrees because, as applicant is aware, the claims are to be given their broadest reasonable interpretation. With that in

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mind, since the collar (labeled 13 in Damm) is larger than an opening in the ferrule (22) it inherently would provide a captive feature to the screw as such it is proper to characterize the device of Damm as a "captive screw". The device of Damm being intended as a sound decoupling connection element does not take away from the fact that it is also a captive screw.

Applicant's next argument that in Damm the screw shaft passed "into" the ferrule (formed body 3) and not "through" the ferrule is not fully understood. In Damm the screw shaft is shown as having a length greater than that of the ferrule and as such, it is not understood how the screw could be construed as being anything but "adapted to pass through the ferrule".

Applicant further concludes that the ferrule (formed body 3) must be compressed for the device of Damm to operate as intended in support of the position that the shaft is only "into" the ferrule. In response, the examiner disagrees with applicant conclusion because, in Damm, the figures (see for example Fig. 2) show a gap between the ferrule (3) and second part (28). It should be recognized that the isolation between the first and second parts is provided by elastic ring labeled 29.

Regarding Ernest, applicant argues that Ernest does not disclose the provision of a spring. In response, the examiner disagrees because Ernest clearly shows a spring (50) in the first disclosed embodiment.

Applicant next argues that the skilled artisan would not be motivated to combine a spring as in Ernest with the device of Damm since it would destroy Damm's intent to have the screw be located at any intermediate position relative to the ferrule (formed body 3). In response, the examiner concedes that the spring would force the screw to a fully retracted position which would not allow for any intermediate position. However, Damm further discusses that it would be advantageous to pre-mount the first and second parts without danger of the surface of the second part being harmed by the screws (top of column 4). With this in mind, the inclusion of a spring to force the screw to the fully retracted position would ensure that in a pre-assembled condition, the threaded end of the screw would not protrude past the end of the ferrule so that there would be no danger of the screw harming the surface of the second part (see Damm Fig. 3 and Ernest Fig. 2). The skilled artisan would have recognized this benefit of the spring and as such would have been motivated to combine the spring as in Ernest with the device of Damm. Furthermore, in Damm there would be no benefit to the screw being positioned at any intermediate position other than the fully retracted position as exemplified by the drawing only shown the screw in the fully retracted and fully assembled position.

Applicant next argues the alternative rejection wherein Ernest was used as the base reference again arguing there is no motivation for the combination. Applicant argues that there would be no motivation for the collar in Damm without the compression gasket and if the collar were located anywhere along the shaft Ernest it

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would destroy the intended operation of Ernest. In response, the examiner disagrees. The skilled artisan concerned with Ernest would have recognized the teachings of Damm since that the collar would provide the same advantages to the device of Ernest as in Damm. Specifically, the collar once combined with Ernest would provide a standoff feature as it does in Damm and the standoff feature would then allow for an elastic material to be interposed between. The skilled artisan versed in the art would have recognized it would be advantageous to provided a sound decoupling between the pates 12 and 13 of Ernest as disclosed in Damm depending upon the particular application of the device. Furthermore, once combined, regardless of where along the length of the shaft the collar were located it would operate prevent the screw from being removed from the ferrule and thus it would provide the advantageous of not having the threads contact the ferrule which would protect the threads for damage.

Applicant lastly argues the combination involving Aukzemas in that the collar is not disclosed. In response, neither Aukzemas nor Ernest it relied upon for the disclosure of the collar. As discussed above the reference to Damm is relied upon to disclose the collar.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

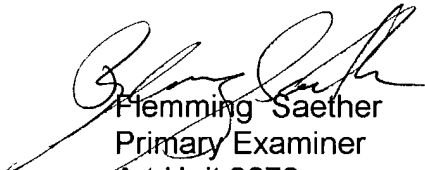
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Flemming Saether
Primary Examiner
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